

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

GARY GIANNINI,

No. C 14-05227 LB

Plaintiff,

**ORDER (1) TO SHOW CAUSE RE:
SUBJECT-MATTER JURISDICTION
AND (2) CONTINUING THE
HEARING ON DEFENDANT'S
MOTION TO DISMISS**

v.

CARPENTERS PENSION TRUST FUND
FOR NORTHERN CALIFORNIA,

Defendant.

Plaintiff Gary Giannini, who is proceeding pro se, sued Defendant Carpenters Pension Trust Fund for Northern California in state court. He alleges that Defendant breached a contract entitling him to pension benefits. Defendant removed the action to federal court, asserting that Plaintiff's claim is preempted under the Employee Retirement Income Security Act ("ERISA"). In the notice of removal, Defendant says that Plaintiff seeks "benefits from a pension plan governed by" ERISA and that his claim necessarily involves questions arising under that statute. Defendant, however, offers no argument or evidence to support this assertion. Defendant neither filed a declaration attaching the pension plan nor explained why the pension plan is one that is covered by ERISA. As it stands now, the record does not establish that the pension plan at issue in this action is one that is covered by ERISA.

The court thus orders Defendant to show cause why this action should not be remanded for lack of subject-matter jurisdiction. Defendant shall do so in writing no later than January 30, 2015. In

light of this jurisdictional problem, the court continues the hearing on Defendant's pending motion to dismiss from January 29, 2015 to February 12, 2015 at 9:30 a.m. in Courtroom C, 15th Floor, United States District Court, 450 Golden Gate Avenue, San Francisco, California 94102.

IT IS SO ORDERED.

Dated: January 23, 2015



LAUREL BEELER
United States Magistrate Judge